

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

CHARLES ROBINSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-07-236-C
)	
MARY BETH CARNEY, R.N. and)	
NURSE WILLS,)	
)	
Defendants.)	

**REPORT AND RECOMMENDATION ON
REQUEST FOR A TEMPORARY RESTRAINING ORDER**

The Plaintiff has requested a temporary restraining order requiring prison officials to “take photos of the plaintiff’s wounds” and “stop withholding [sic] [medical supplies].”¹ The Court should deny the request.

A temporary restraining order is an extraordinary remedy.² As a result, it may only be granted without notice to the adverse parties when the procedural safeguards of Fed. R. Civ. P. 65(b) are “scrupulously honored.”³ Those safeguards require the movant to:

- show that “immediate and irreparable injury, loss, or damage will result . . . before the adverse party . . . can be heard in opposition,” and

¹ Order to Cause for a Injunction a Temporary Restraining Order (Apr. 4, 2007).

² See *Lueker v. First National Bank of Boston (Guernsey) Limited*, 82 F.3d 334, 337 (10th Cir. 1996).

³ 11A C. Wright, A. Miller, & M. Kane, *Federal Practice & Procedure* § 2952 at 271-72 (2d ed. 1995) (citation omitted); see also *Commercial Security Bank v. Walker Bank & Trust Co.*, 456 F.2d 1352, 1356 (10th Cir. 1972) (“We can only reiterate that Rule 65 must be strictly complied with.”).

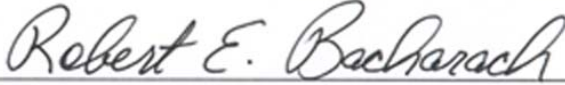
- certify “in writing the efforts, if any, which have been made to give the notice [to the adverse party] and the reasons supporting the claim that notice should not be required.”⁴

Mr. Robinson claims a serious medical condition, but has not suggested any efforts to notify the Defendants of the application or provided any reasons for his inability to provide such notice. As a result, the Court should deny the motion for a temporary restraining order.⁵

Mr. Robinson can object to this report and recommendation. To do so, he must file an objection with the Clerk of this Court by May 10, 2007.⁶ The failure to timely object would foreclose appellate review of the suggested ruling.⁷

The referral to the undersigned is not terminated.

Entered this 20th day of April, 2007.


Robert E. Bacharach
United States Magistrate Judge

⁴ Fed. R. Civ. P. 65(b) (2001).

⁵ See *Commercial Security Bank v. Walker Bank & Trust Co.*, 456 F.2d 1352, 1356 (10th Cir. 1972) (reversing the district court’s issuance of a temporary restraining order in part because the court had failed to comply with Fed. R. Civ. P. 65(b)); see also *Reno Air Racing Association, Inc. v. McCord*, 452 F.3d 1126, 1131-32 (9th Cir. 2006) (district court erred in granting *ex parte* temporary restraining order when the applicant failed to justify lack of notice); *First Technology Safety Systems, Inc. v. Depinet*, 11 F.3d 641, 650-52 (6th Cir. 1993) (when the movant failed to justify lack of notice, issuance of a temporary restraining order was abuse of discretion).

⁶ See W.D. Okla. LCvR 72.1(a).

⁷ See *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); see also *Marshall v. Chater*, 75 F.3d 1421, 1426 (10th Cir. 1996) (“Issues raised for the first time in objections to the magistrate judge’s recommendation are deemed waived.”).